

**REMARKS**

In the Office Action, the Examiner indicated that claims 1-31 were pending in the application and that claims 1-15 were withdrawn from consideration. However, it is noted that claims 1-15 were cancelled in an amendment of April 19, 2006, thus only claims 16-31 were pending. Claims 18, 24, 30 and 31 have been cancelled without prejudice or disclaimer. Thus, claims 16, 17, 19-23 and 25-29 remain pending. No new matter is presented in this Amendment.

**DOUBLE PATENTING:**

Claims 16-31 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-39 of copending Application No. 10/388,761.

Claims 16-31 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 7,000,239.

Claims 16-31 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,772,429.

In order to expedite prosecution, a Terminal Disclaimer is enclosed herewith.

**REJECTIONS UNDER 35 U.S.C. §102:**

Claims 16, 17, 23, 29-31 are rejected under 35 U.S.C. §102(b) as being anticipated by applicant's Prior Art (Figs 1-4). Claims 30 and 31 has been canceled without prejudice or disclaimer, thus the rejection of claims 30 and 31 is moot. (Claim 30 originally depended from claim 1, which was cancelled in response to the restriction requirement.) Claim 16 has been amended to more clearly point out the invention and recites an optical recording medium recorder/reproducer, comprising: an optical pickup used to record and/or reproduce data onto/from the optical recording medium, the optical recording medium having wobbles formed in at least one lateral surface of grooves of a user data area and a lead out area, wherein the wobbles of the user data area differ from the wobbles of the lead out area. A controller controls the optical pickup to record and/or reproduce data onto and/or from the user data area and the lead-out area, and discriminates between the user data area and the lead out area based on the wobbles of the user data area and the lead out area.

In contrast, the prior art of record contains no disclosure of discriminating between the

user data area and the lead out area based on the wobbles of the user data area and the lead out area. In fact, the specification does not even mention either the wobbles of the user data area and the lead-out area. This is made clear by, among other things, the fact that the insert of FIG. 1, which illustrates a lead-out area, lacks the illustration of the wobbles 135 that are shown in the insert of the lead-out area of FIG. 5.

Since the prior art of record cited by the Examiner does not disclose discriminating between the user data area and the lead out area based on the wobbles of the user data area and the lead out area, the combination of claimed features is not disclosed in the prior art of record. Thus, claim 16 is patentably distinguished from the prior art of record. Therefore, the rejection of claim 16 is believed to be overcome.

Claim 17 has been amended to recite that the recorder/reproducer "records a same predetermined pattern in the user data area and the lead out area and the controller discriminates between the user data area and the lead out area based on only the difference in the wobbles." This combination of features is not disclosed in the prior art of record.

Claim 23 has been amended to recite that the processor "records different predetermined patterns in the user data area and the lead out area and the controller discriminates between the user data area and the lead out area based on both the difference in the wobbles and the difference in the predetermined patterns." This combination of features is not disclosed in the prior art of record.

Claim 29 is deemed to be patentable at least for similar reasons set forth above regarding claim 23.

#### **REJECTIONS UNDER 35 U.S.C. §103:**

Claims 18-20, and 24-26 are rejected under 35 U.S.C. §103(a) as being unpatentable over applicant's Prior Art (Figs 1-4) in view of Nakajima et al. (JP 2000-231722).

Claims 18 and 24 have been cancelled without prejudice or disclaimer, thus the rejection of claims 18 and 24 is moot.

Claims 19 and 20 are deemed to be patentable at least for similar reasons set forth regarding claims 16 and 17.

Claim 25 has been amended to recite that where the recording medium comprises two or more recording layers for multi-layer recording, "the processor records a different predetermined

pattern on the lead out area of each of the recording layers to distinguish between the recording layers." This combination of features is not disclosed in the prior art of record.

Claim 26 is deemed to be patentable at least for similar reasons set forth above regarding claim 25.

It is noted that although the Office Action Summary implies that claims 27 and 28 are rejected, no statutory basis for the rejection for the rejection of claims 27 and 28 is included in the detail of the Office Action. If such claims are rejected, it is respectfully requested that a statutory basis for such rejection be provided. Claims 27 and 28 have been amended to improve form.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited. If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Finally, if there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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